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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,623	09/22/2000	Christopher S. Hagler	PD-201115	1466

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EXAMINER	
ELALLAM, AHMED	
ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,623

Applicant(s)

HAGLER ET AL.

Examiner

AHMED ELALLAM

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-12 is/are allowed.
- 6) ☒ Claim(s) 13, 14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is responsive to Amendment filed on March 17, 2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 13, 14, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view of Kikinis, US (5,960,073).

Regarding claim 13, with reference to figure 1 and 2, Lo discloses a broadband modem 160 connected to the telephone line 135, see paragraph [0014], the broadband modem comprising a processor 210 and memory device 204 that perform the functions necessary to configure broadband modem 160 and then establish and maintain connections between computer 150 and broadband network 120. Processor 210 executes program instructions.

A search module 224 for automatically determining a set of configuration values and builds a discover packet that is transmitted over the telephone line to be acknowledged by the access concentrator, 190, see paragraph [0019]; (reads on

automatically determining available communication resources on the analogue telephone line);

Upon receipt of a response packet by the broadband modem 160, search module 224 determines the correct configuration information from the header of the response packet and determines the presence of broadband service associated with the correction configuration information, see paragraph [0021]; (Claimed automatically configuring the DSL modem based on the available communication resources.

Lo does not disclose a relay for switching a connection between a DSL circuit and a first pair of lines and a second pair of lines.

However, with reference to figure 1, Kikinis discloses a home having two pair of lines 127 and 129.

Therefore it would have been obvious to an ordinary person of skill in the art at the time the invention was made to have the two lines implementation applied to the modem of Lo so that either line can be intermittently selected for broadband services.

Regarding claim 14, Lo discloses a memory 204 having instructions for the access concentrator to responds to the discovery packet, See paragraph [0019], and that if no response is received after several attempts, the modem is notified that the broadband service is not available, see paragraph [0023]. (Reads instruction further comprise instructions for automatically determining available communication resources further comprises the step of automatically detecting if DSL communication circuit exist on the analogue circuit line).

Regarding claim 17, Lo discloses that memory 204 having instructions for the automatically identifying a virtual communication route for communicating between the broadband modem and a broadband network 120, see paragraph [0021].

Regarding claim 18, Lo discloses that memory 204 having instructions for:

- the broadband modem 160 to transmits multiple discover packets, see paragraph [0020] , (reads on transmitting a plurality of test signals to the communication network);
- receiving a response to one of discover packets, see paragraph [0020], (reads on receiving a response signal to one of the plurality of signals);
- storing response signal, see [0023].

Regarding claim 19, Lo discloses that memory 204 having instructions for the broadband modem to transmit a plurality of sets of configuration values that includes a subset of commonly used VPI values and VCI values to a network access device by way of discover packets until a correct configuration match is found. See [0009].

(Reads on instruction for sending a plurality of test cells to an ATM network, where each test cell contains a different test VPI/VCI pair).

Regarding claim 20, Lo discloses that memory 204 having instructions for the broadband modem to determine the correct configuration information from the received response packet, and determine the presence of broadband service associated with the correction configuration information, and that correct configuration information includes a VPI value, a VCI value. See paragraph [0021]. (Claimed instruction for

acquiring a single response cell from the ATM network, where the single response cell contains a single response VPI/VCI pair for communicating with the ATM network).

Regarding claim 21, Lo with reference to figure 1 and 2, discloses a DSLAM between the broadband network 120 (ATM network) and the broadband modem, Lo also discloses a search module 224 (figure .2) configured to determine which set of configuration values stored in configuration table 220 is appropriate for establishing communications between broadband modem 160 and access concentrator 190 through the DSLAM, Lo discloses that memory 204 having instructions for: the search module to select a set of configuration values (ie: VPI, VCI) from a configuration table (claimed static list of VPI/VCI pairs), see paragraph [0019] and that in response to the discover packet a determination is made with the proper VPI/VCI pair (indicated above). (Claimed instruction for making response VPI/VCI pairs with a VPI/VCI pair contained in within a static list of at least some VPI/VCI pairs that the DSLAM is configured with).

Response to Arguments

2. Applicant's arguments filed March 17 2004 have been fully considered but they are not persuasive with regard to claims 13, 14 and 17-21. However, claims 1 and 4-12 are allowed in light of the amendment.

Applicants argue that Kikinis reference does not *teach a relay for switching a connection between a DSL circuit and a first pair of lines of an analogue telephone line and a second pair of lines of the (same) analogue lines. Applicant further argue that*

Kikinis teaches two lines...one used for data, and the other for voice,...further, even if Kikinis taught switching between two PSTN lines, it does not teach switching between pairs of line of the same PSTN line”.

Examiner respectfully disagree, expanding on what was stated in the rejection of claim13, Examiner interpreted the home agent 106 of Kikinis as being a relay since it can choose using the line 129 for data or telephone and line 127 for either data or telephone connection. See column 6, lines 27-46. In contrast to Applicants argument, Examiner believes that the physical presence of the two pots lines of Kikinis would motivate an artisan familiar with the teaching of Lo to take advantage of implementing intermittently both lines for voice and data services. The advantage would be having a more reliable system of Lo in case of a faulty line, in addition t o two fold of bandwidth that a single pot lines can provides.

Examiner believes that, given the broadest reasonable interpretation of the claim limitations, a prima facie case is being established and the rejection is proper.

Allowable Subject Matter

3. Claims 1 and 4-12 are allowed.

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kizou Hassan can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2662

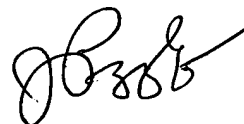
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHMED ELALLAM

Examiner

Art Unit 2662

October 15, 2004

A handwritten signature in black ink, appearing to read 'JP 8/8', is positioned above the printed name and title.

JOHN PEZZLO
PRIMARY EXAMINER